

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested.

Claims 29-35 and 49-58 were rejected under 35 U.S.C. § 112, first paragraph, as containing new matter. According to the Office Action, the terminology "fixed-location" included in the amended claims "does not appear to be in the originally filed specification." This basis of rejection is respectfully traversed.

Applicants note that the Office Action set a one-month shortened statutory period for reply. While the PTO is permitted to shorten the statutory period for reply pursuant to 35 USC § 133, applicants respectfully submit that the shortened statutory period in this case should have been no less than three months. In this regard, MPEP 710.02(b) indicates that a one-month shortened statutory period is reserved for two situations: (A) a requirement for restriction or election of species only (no action on the merits); or (B) where a previous response to a non-final Office Action is bona fide but includes an inadvertent omission. For any Office Action on the merits, a three-month reply period is appropriate. Accordingly, applicants submit that the present reply, which is being filed within the period of three months from the date of the Office Action, should be treated as timely without the need for any extension.

Regarding the merits of the rejection, applicants submit that the specification and drawings as originally filed clearly provide support for the "fixed-location" limitation added to the claims. As set forth in MPEP 608.01(l), an applicant may rely on any of the description,

the drawings or the original claims in establishing a disclosure. In this regard, Figures 1 and 2 of the originally-filed application both show a plurality of fuel dispensers 12 located in a fuel station environment. These drawings clearly depict fixed-location fuel dispensers 12 having a pair of fueling positions 14 on each side.

Moreover, the portion of the specification appearing at page 5, lines 15-18 states as follows:

A fuel station environment 10 is shown having a plurality of fuel dispensers 12. Each dispenser 12 typically has at least two fueling positions 14 capable of delivering fuel and providing a point-of-sale (POS) interface.

This type of arrangement, i.e., an upright fuel dispenser having two fueling positions, one on each side, is well known in the art. Accordingly, applicants submit that the specification and drawings as originally filed clearly provide support for the "fixed-location" language in the amended claims.

Regarding the statement in the Office Action that this terminology "does not appear to be in the originally filed specification," the MPEP states that "an applicant is not limited to the nomenclature used in the application as filed." MPEP 601.01(o). In this case, however, the applicant may be required to "make appropriate amendment of the specification whenever this nomenclature is departed from by amendment of the claims. . ." *Id.* Accordingly, by the above amendment, applicants have amended the introductory paragraph of the detailed description to include the precise wording "fixed-location."

Accordingly, withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, is respectfully requested.

Based on the above, it is submitted that the present application is in condition for allowance, and action to such effect is respectfully requested. The Examiner is invited to telephone the undersigned to resolve any remaining issues.

Respectfully submitted,



Craig N. Killen
Reg. No. 35,218

NELSON MULLINS RILEY
& SCARBOROUGH, LLP
P.O. Box 11070
Columbia, SC 29211-1070
(803) 799-2000
Fax (803) 256-7500